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LETTER DATED 28 SEPTEMBER 1992 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith, for the attention of the Security Council, the following information on the seventh session of the Governing Council, held from 21 to 24 September 1992.

At its 29th plenary meeting held on 24 September, the Governing Council adopted the following decisions:

Decision 12: Claims for which established filing deadlines are extended (S/AC.26/1992/12).

Decision 13: Further measures to avoid multiple recovery of compensation by claimants (S/AC.26/1992/13).

The texts of the two decisions are enclosed herewith.

Representatives of Iraq and Kuwait were authorized to address the Council at its 28th plenary meeting held on 21 September 1992 in accordance with paragraph 5 of the guidelines for the conduct of the work of the Governing Council (see S/22885, annex I).

The Executive Secretary informed the Governing Council, inter alia, of the receipt by the secretariat, until 19 September, of more than 150,000 claims in categories A, B and C, submitted through 22 Governments, and of the gathering of over 2 million records for the verification of departure in category A claims.

The next session of the Governing Council will take place from 14 to 18 December 1992.

(Signed) Alex REYN
President
Governing Council
United Nations Compensation Commission

Annex I

DECISION 12

Adopted by the Governing Council of the United Nations Compensation Commission during its seventh session, at its 29th meeting, held on 24 September 1992*

Claims for which established filing deadlines are extended

1. The established filing deadlines are extended for the following claims:

(a) Claims of individuals under the criteria for expedited processing of urgent claims (see S/22885, annex II), and the criteria for processing claims of individuals not otherwise covered (see S/23765, annex) for losses and personal injuries resulting from public health and safety risks that occur after or within one year prior to the expiration of the established filing deadlines: these claims should be submitted to the Commission within one year of the date of such loss or injury, but no later than the time-limit to be established pursuant to paragraph 2 of this decision;

(b) Claims of individuals under the criteria for expedited processing of urgent claims (see S/22885, annex II), and the criteria for processing of claims of individuals not otherwise covered (see S/23765, annex) who have been detained in Iraq until after or within one year prior to the expiration of the established filing deadlines: these claims, including claims for losses and personal injuries resulting from detention in Iraq, should be submitted to the Commission within one year of the detainee's release or of the death of the detainee, as legally determined by the detainee's Government, but not later than the time-limit to be established pursuant to paragraph 2 of this decision;

(c) Claims under the criteria for processing claims of Governments and international organizations (see S/23765, annex) for losses resulting from environmental damage: these claims should be submitted to the Commission no later than 1 February 1997.

2. When the Executive Secretary determines that the processing of all remaining claims before the panels of Commissioners is likely to take no more than one year to complete, he should so notify the Governing Council. The Governing Council should thereupon establish the final time-limit for the submission of claims covered by paragraphs 1 (a) and 1 (b) of this decision. The Governing Council should establish the final time-limit at its next meeting after receiving such notification and should allow at least three additional months from the date of its decision for the filing of the claims.

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* Previously issued under the symbol S/AC.26/1992/12.

3. In submitting claims pursuant to this decision, Governments must include in their affirmation pursuant to paragraph 14 (1) (c) of the Provisional Rules for Claims Procedure (see S/24363, annex I, enclosure) that such claims are the ones for which an extended deadline has been granted. In addition, individual claimants filing claims in these categories must include with their claim forms statements explaining the circumstances as to why they were unable to file their claims within the previously established deadlines.

4. Claims covered by this decision should be submitted at the earliest possible time within the time-limits established by the Governing Council. The Commission should thereupon give consideration to such claims as provided for in the applicable criteria.

5. The Governing Council may consider the extension of established filing deadlines for other categories of claims if, in the future, additional situations are identified.

Annex II

DECISION 13

Adopted by the Governing Council of the United Nations Compensation Commission during its seventh session, at its 29th meeting, held on 24 September 1992*

Further measures to avoid multiple recovery of compensation by claimants

With a view to avoiding multiple recovery of compensation by claimants for the same losses, the Governing Council, in addition to measures already taken:

1. Decides to request the Government of Iraq to provide the Commission with information about claims against Iraq in national courts or other forums for losses that would also be eligible for compensation by the Commission and about compensation awarded for such losses.

2. Decides to invite Governments to seek to obtain and to provide the Commission with any information regarding:

(a) Any lawsuit pending in the courts of their jurisdiction against Iraq, or any compensation granted by those courts, for losses resulting from Iraq's invasion and occupation of Kuwait;

(b) Recipients of payments made or relief provided by the respective Government, including, where available, their names, civil I.D. or residency permit numbers, passport numbers, dates of birth, types of losses and amounts paid; and

(c) Recipients of payments made or relief provided by employers known to have operated in Iraq or Kuwait, for losses incurred by their employees as a result of Iraq's invasion and occupation of Kuwait, including, where available, their names, civil I.D. or residency permit numbers, passport numbers, dates of birth, types of losses and amounts paid.

3. Noting that, in light of decision 1 (see S/22885, annex II), the questions of multiple recovery and deductions from payments made in respect of claims in categories A and B do not arise, decides to adopt the following guidelines for the payment of compensation in cases where multiple recovery for the same loss may occur:

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* Previously issued under the symbol S/AC.26/1992/13.

(a) Governments or employers that seek reimbursement under category E or F claims of amounts paid for losses that had already been paid from the Fund to individual claimants under categories C and D claims, will not be eligible for compensation. If a request for reimbursement from the Fund is submitted to the Commission by the Government or the employer while the C or D claim of the individual concerned is being processed before the Commission, the amount of compensation already received by the individual (as shown by the Government or employer) will have to be deducted from his or her claim;

(b) When the Commission learns, either through information provided by the claimant or through other means, and before paying compensation from the Fund, that a claimant in categories C, D, E and F has received compensation elsewhere for the same loss, the amount already received will be deducted from the compensation to be paid from the Fund to that claimant for the same loss.